



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,227	01/09/2004	David James Whitaker	81187 (1006)	8056

22242 7590 08/10/2005

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

EXAMINER

CHANG, JUNGWON

ART UNIT	PAPER NUMBER
----------	--------------

2154

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/754,227

Applicant(s)

WHITAKER ET AL.

Examiner

Jungwon Chang

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/21/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-37 are presented for examination.
2. Claim 36 is objected to because the following informalities:
Lines 1-2, said control terminal is does not include should be said control terminal does not include. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 34 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 34 recites the limitation "said at least one control channel" in lines 2-3.

There is insufficient antecedent basis for this limitation in the claim.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11

Art Unit: 2154

F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1 and 2 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,684,253. Although the conflicting claims are not identical, they are not patentably distinct from each other because both systems comprise substantially the same elements: a common channel carrying data of a plurality of domains; at one switch through which data enters and exits the common channel; a plurality of routers couple to said at least one switch; a plurality of filtering means for filtering data traveling through said at least one switch through which data enters and exits said common channel based on a filtering criteria; and terminals coupled to each of said routers.

7. As to claims 3-37, since they are fully disclosed in Patent No. 6,684,253, they are therefore considered to reject under obviousness-type double patenting as same reason set forth in the paragraphs hereinabove.

8. Claims 1-24 would be allowable if applicants file a terminal disclaimer to overcome the rejection under the obviousness-type double patenting, set forth in this

Art Unit: 2154

Office action.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 25-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Gervais et al. (US 5,856,974), hereinafter Gervais.

11. As to claims 25 and 26, Gervais discloses the invention as claimed, including a system for transporting data comprising:

a first domain (104, fig.1) comprising a first plurality of filters (routers; 130, 132, figs. 1-2; col. 1, lines 25-30) in a first communications channel (117, 118, 120, figs. 1-2), the first communications channel including a common portion (connection path shared by the nodes; col. 1, lines 17-24), a first terminal (123, figs. 1-2) coupled at one end of the first communications channel (118, figs. 1-2) (col. 2, lines 10-24), and a second terminal (126, figs. 1-2) coupled at another end of the first communications channel (120, figs. 1-2) (col. 2, lines 10-24), the first plurality of filters employing a first plurality of

Art Unit: 2154

filtering criteria (routing information protocol; Integrated IS-IS protocols; col. 1, lines 45-51);

a second domain (304, fig. 3) comprising a second plurality of filters (312, 314, 328, fig. 3; col. 6, lines 46-53) in a second communications channel (320, 322, fig. 3), the second communication channel including the common portion (connection path shared by the nodes; col. 1, lines 17-24), a third terminal (346, fig.3) coupled at one end of the second communications channel (320, fig. 3), and a fourth terminal (node, fig. 3) coupled at another end of the second communications channel (fig. 3), the second plurality of filters employing a second plurality of filtering criteria (routing information protocol; Integrated IS-IS protocols; col. 1, lines 45-51).

12. As to claims 27 and 28, Gervias discloses MAC address; IP address (col. 7, lines 1-30).

13. As to claims 29-32, Gervias discloses the plurality of filters includes routers (col. 1, lines 25-30).

14. As to claim 33, it is rejected for the same reasons set forth in claim 25 above. In addition, Gervias discloses a plurality of managers (backbone; figs. 1, 3) each coupled to one of the first plurality of filters and the second plurality of filters, each of the plurality managers comprising means for configuring the one of the first plurality of filters and the second plurality of filters (col. 1, lines 17-30; col. 7, lines 42-58);

at least one control terminal coupled to the plurality of managers for controlling said plurality of managers (gateway; col. 7, line 42 – col. 8, line 13).

15. As to claims 34-37, Gervias discloses storing a configuration file for each of said first plurality of filters and each of the second plurality of filters (col. 1, lines 17-30; col. 7, lines 42-58); plurality of managers including respective management software (backbone inherently performs intelligent processing and knowledge processing; col. 1, lines 45-52); said control terminal does not include management software, but rather includes communications software in communication with said management software (gateway; col. 7, line 42 – col. 8, line 13).

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Civanlar et al, patent 6,483,832, Perlman et al, patent 6,094,525, Nguyen et al, patent 6,594,279 disclose method and system for efficiently routing among nodes of different domains of networks.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jungwon Chang whose telephone number is 571-272-3960. The examiner can normally be reached on 9:30-6:00 (Monday-Friday).

Art Unit: 2154

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JWC
August 7, 2005